TENNESSEE

Housing Outlook

A Journal of Applied Research

Volume 6, Issue 1, Spring 2003

In This Issue:

Celebrating 30 years

THDA

Opening Doors to Affordable Housing

TENNESSEE

Housing Outlook

A Journal of Applied Research

Dear Reader,

For thirty years, the Tennessee Housing Development Agency has worked to help low- and moderate-income Tennesseans afford decent housing. Since 1973, many things have changed in the housing industry and our state economy. This issue of *Tennessee Housing Outlook* celebrates the achievements and advances of these years.

For several years, many of us have anxiously awaited the release of data from the 2000 Census to see what socioeconomic changes occurred in Tennessee during the 1990's. While at publication we still await the release of some important data for Tennessee, the article in this issue by Dean Namboothiri examines some important changes in housing markets beginning with the 1970 Census through the 2000 Census. Reflecting on these trends is an important part of preparing ourselves for where we're going in the next thirty years.

Since THDA's establishment in 1973, we have helped over 80,000 families become homeowners. Through sound financial management and program innovation, the agency has been able to offer mortgages that reached out to special populations while continuing to offer our standard mortgage products. Bryan Ricketts' article in this issue is a review of THDA's mortgage products over time.

The year 2003 is also the 35th anniversary of the Fair Housing Act, and some important historical information about this landmark legislation is provided in the article by Tracey McCartney and Sara Pratt. The Act has evolved over the years and these changes are clearly laid out. Further information about the applicability of the Fair Housing Act in Tennessee is provided in the companion piece by Tracey McCartney.

Finally, Libby Thurman examines some patterns from a study of the Low-Income Housing Tax Credit program. Actually one of the newer programs established to help lower-income persons with housing, the tax credit program is universally acknowledged as currently one of the most important programs in the country for increasing the stock of affordable rental housing. Ms. Thurman's article briefly examines some of the ways this program has been used in Tennessee.

This issue contains commentary by a number of people who have been important in the operation of THDA over the years. These people, all of whom are listed on the back page of the issue, have given generously of their time to the mission of THDA in the past and their willingness to provide this commentary exhibits their continued willingness to do so. Their contributions to this issue are greatly appreciated.

Sincerely,

Lorraine C. Shearon

Lorraine C. Shearon
Executive Editor

Tennessee Housing Outlook welcomes ideas for articles. Address suggestions, editorial correspondence, and inquiries to Lorraine C. Shearon, Director of Research, Planning, & Technical Services, Tennessee Housing Development Agency, 404 James Robertson Parkway, Suite 1114, Nashville, TN 37243-0900; telephone (615) 741-7918.

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Housing Market Changes in Tennessee: A Review of Census Data

Over many decades, Tennessee housing markets have responded significantly to many economic and demographic changes that have been underway in the Volunteer State. The more noticeable of these housing trends are discussed in this section. For this trend analysis, we use the decennial census snapshots of the Tennessee population and Tennessee housing markets. This analysis will also serve as a good analytical backdrop to the ensuing discussion of the THDA Homeownership program, a 30-year effort to further affordable homeownership in Tennessee.

"These articles, reinforced by my personal knowledge of the work of THDA, illustrate that over the past 30 years THDA has helped many, many Tennessee families realize the American dream of homeownership

The census data presented here highlights some of the challenges which the housing industry will increasingly face in the coming years. The population of recent immigrant households is growing and currently has very low homeownership rates. Also, the proportion of single family households, frequently elderly widows, continues to grow and presents unique housing challenges. Meeting the needs of these and other segments of the population will require the resources and leadership that public-private partnerships can best provide. I look forward to working with THDA on meeting these challenges head-on."

- Henry Turley

TABLE: 1960-2000 Intercensal Population Growth Rates

	1960-1970	1970-1980	1980-1990	1990-2000
United States	13.4%	11.4%	9.8%	13.2%
South	14.3%	20.0%	13.4%	17.3%
East South Central	6.3%	14.5%	3.5%	12.2%
Tennessee	10.1%	16.9%	6.2%	16.7%

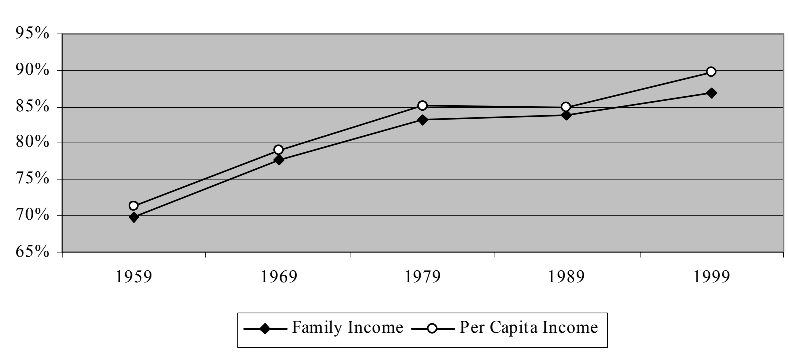
A Brief Review of Long-term Trends

Population Growth: The sizable population growth witnessed by many southern states including Tennessee, during the twentieth century, continued to gain momentum during the last three decades. Growth rates in Tennessee approached the 17 percent mark during the decades 1970 to 1980 and 1990 to 2000, although in between these periods Tennessee population grew just by 6.2 percent.

Income Growth: In 1960, both per capita income and median family income in Tennessee remained around 70 percent of the national level. However, by 2000, Tennessee progressed considerably towards parity with the nation, approaching the 90 percent level.

These significant gains in both income and population occurred when the economic climate and the business-friendly environment of Tennessee attracted many businesses and industries. In-migration also brought affluent

CHART 1: Tennessee Income Levels in Proportion to US Income Levels



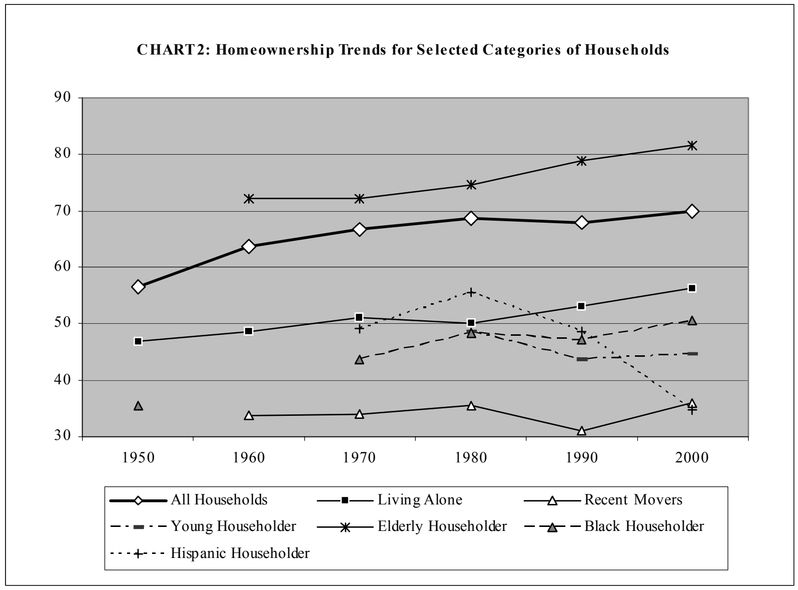
consumers who might have relished the quality and the relatively modest prices of Tennessee homes.

Homeownership Trends

Homeownership rates in Tennessee surged rapidly from 56 percent to 64 percent during the 1950's fueled partly by the post-war housing programs for returning veterans. Modest gains in homeownership since then have helped the rate to creep gradually to a 70 percent level by the year 2000. African American households also experienced gains in their homeownership rates during this period, although they retained a historical gap well below the rates for all households in Tennessee. Hispanics, whose numbers in Tennessee have been increasing very rapidly in recent years, have experienced a steep decline in their homeownership rates since 1980. Unaccompanied by family members, many of the recent Hispanic movers might have opted to rent.

Other noticeable homeownership trends shown in Chart 2 include the following:

- Younger households (householders below age 35) do have home-ownership rates in the upper forties, but well below their older counter-parts. The transition of young persons to householders and homeowners parallels their evolution in the career world. Insecurity and relocations that are characteristics of one's early career call for the rental housing option.



> *"In reviewing TDHA's 30-year history, all involved with the agency can take pride in it accomplishments. As a former board member and as director of the Metropolitan Development Housing Agency in Nashville, I have had the opportunity to observe the agency's work from a number of perspectives.*
>
> *The traditional single family mortgage program has offered thousands of Tennesseans the opportunity to become homeowners. This program has helped the rate of home-ownership grow in our state."*
>
> *- Gerald Nicely*

- It is also noteworthy that the elderly homeownership rate has been rising in Tennessee since 1970 and is at its peak in 2000.

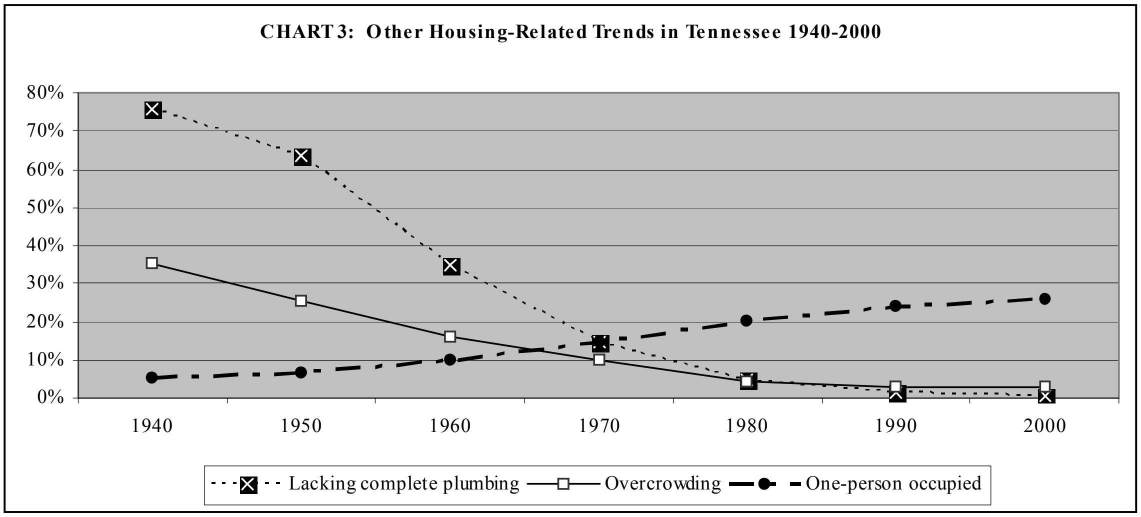
- Recent movers (households who moved into the units during the 15 months prior to the Census) are least likely to own a home. As they get settled, they also gradually seek homeownership. Over 80 percent of all householders eventually become homeowners.

- Householders who live alone often opt to rent. However, their homeownership rates have been steadily rising to a level of 56 percent in the year 2000.

Other Housing Trends

One-person households, quite rare in 1940, grew steadily over the ensuing decades so that by the turn of the century they accounted for a quarter of all Tennessee households. This housing trend parallels shifts in family formation including delayed marriages and rising divorce rates. Increases in the number of elderly women who outlive their husbands also might contribute to this trend.

The Tennessee housing market has undergone considerable



improvement in housing adequacy. Overcrowding which plagued over 35 percent of the households in 1940, has declined to its lowest level affecting less than 3 percent of households in 2000. In 1940, three quarters of the households had inadequate plumbing, while in 2000 less than 1% do so.

Housing Affordability During the 1990's

Substantive efforts to promote homeownership across the nation have been underway since the early 1990's and these efforts have helped many states including Tennessee to reach historically high homeownership rates. The extent of housing cost burden experienced by Tennessee households in 2000 is shown in Chart 4. Households who had to spend over half of their income for housing-related expenses are severely cost burdened. Households who fall in this category in 2000 include over 105,000 renters (16 percent of all renter households) and over 71,000 homeowners with mortgage payments (9 percent of all such homeowners).

A comparison of these affordability levels with similar tabulations from the 1990 census is provided in Chart 5. The number of households who live in affordable homes increased substantially during the 1990's. This is especially true among homeowners with mortgage payments who benefited from the substantial drop in mortgage interest rates during this period. However, equally noticeable is the surge at the other end of the affordability scale in the number of homeowners who spend over 35 percent of their income for payments of mortgage, property tax, and insurance.

The proportion of households whose housing costs exceeded 30 percent of their income is often used to measure the affordability deficit in a housing market. The changes in this indicator of affordability deficit are shown in Chart 6. Between 1990 and 2000, this proportion rose among owner households with mortgages in all metropolitan areas except the Jackson MSA. This decline in homeownership affordability was more pronounced in the eastern parts of the state. As a whole, the

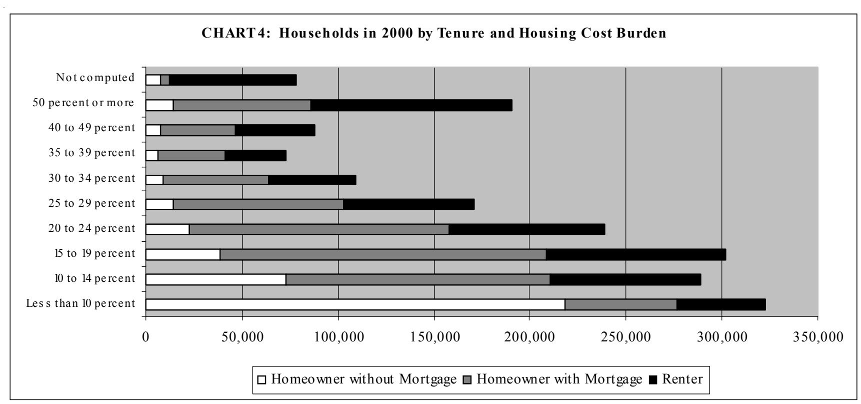
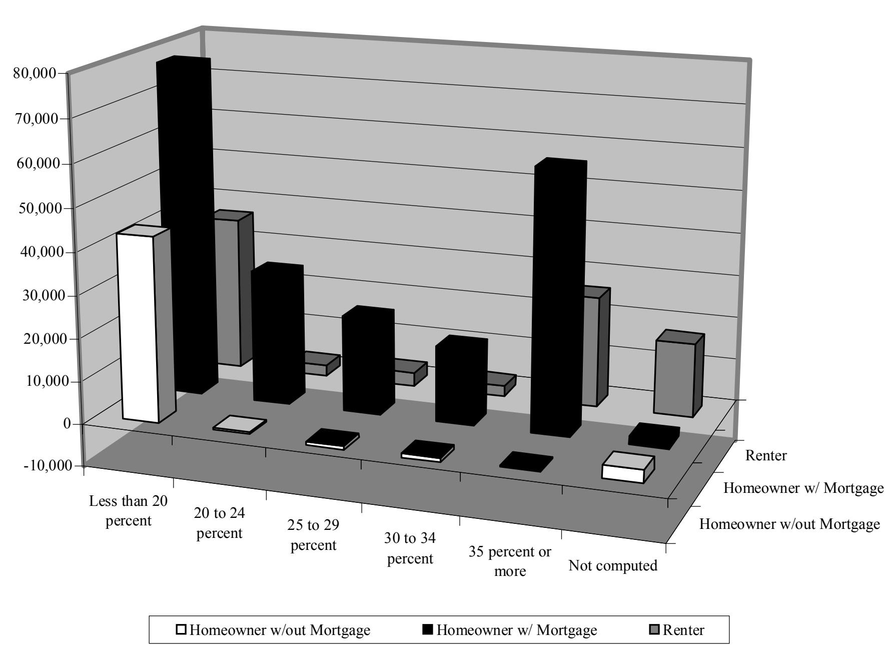


CHART 5: 1990-2000 Increase in Households by Tenure & Housing Cost Burden



and other utility costs (energy/fuel cost for cooking, heating etc.) whether they are subsidized or not. Census measures of income do not include public housing subsidies. For these reasons, the rent burden provided by the census is indicative of a hypothetical situation where no one receives public rental assistance.

Migration into and out of a state and the accompanying demographic shifts significantly impacts the housing markets in a state. Favorable housing market conditions attract businesses and households to an area. When a market responds insufficiently to emerging housing demands, the resultant housing shortage and housing price inflation may dampen the area growth. Adding

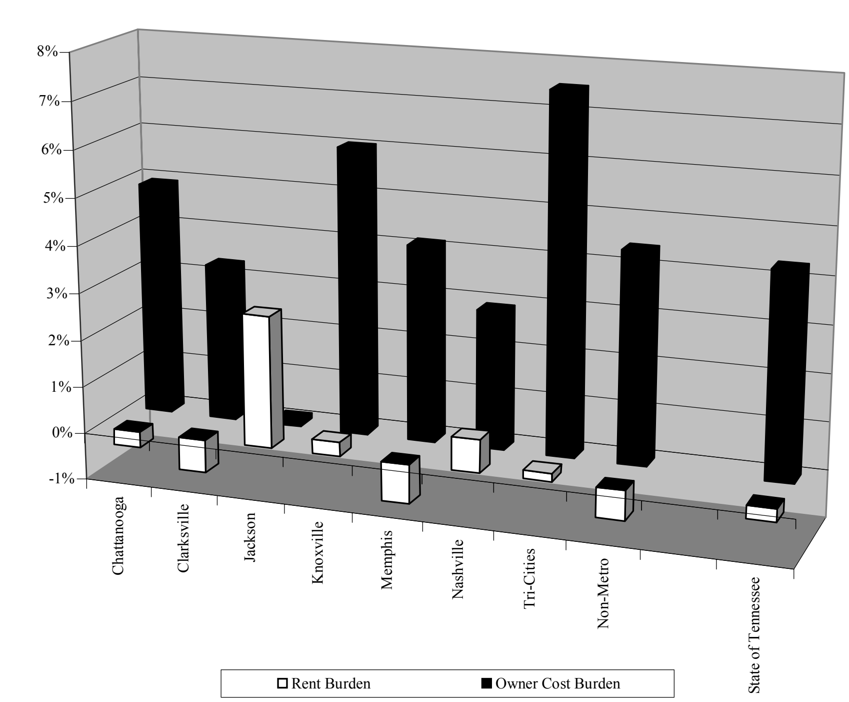
Continued on page 26

non-metropolitan areas of the state also experienced a similar decline in homeownership affordability.

Owner cost calculations from the census data includes periodic repayments of all loans made on the basis of the owned primary residence, including first and second mortgages and home equity loans. Among all homeowners with a mortgage in 1990, 17.4 percent also had to make a second mortgage payment or a home equity loan payment that increased their housing cost. The fact that this proportion rose to 19.5 percent in 2000 may have some bearing on the perceived decline in homeownership affordability during this decade. Since home equity loans often facilitate a variety of consumer needs outside the realm of housing, the inclusion of these payments tends to inflate the real housing burden.

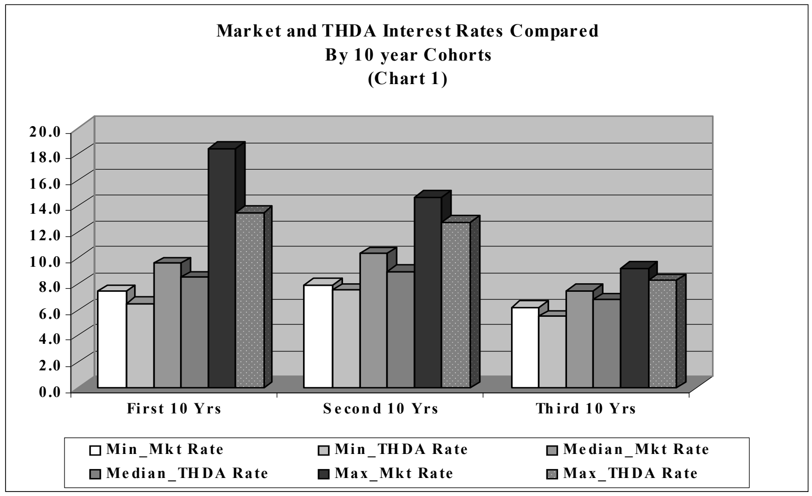
Rental affordability either improved or remained more or less unchanged during the 1990's in all areas except the Jackson MSA, where rent burden level rose by a moderate 2.8 percentage points. Gross rent includes contract rent

CHART 6: 1990-2000 Increase in Housing Cost Burden by MSA



THDA: 30 Years of Service

Tennessee Housing Development Agency's mission is to be the lead state agency promoting sound and affordable housing for people who need help. The year 2003 marks our 30th year serving over 80,000 Tennesseans and we have made loans totaling over $3.6 billion for single family housing. In this article, we will look back over the years and highlight the various programs that have allowed us to extend such great services. We will also look at the different types of loans that were available in the various programs, as well as address the interest rates offered by the agency. We will also look at the interest rates in comparison to respective market mortgage interest rates (10-year cohorts). And lastly, we will look at current loan status, adjusted for the period loans were originated. Loans closed up to September 2002 were included in these analyses.



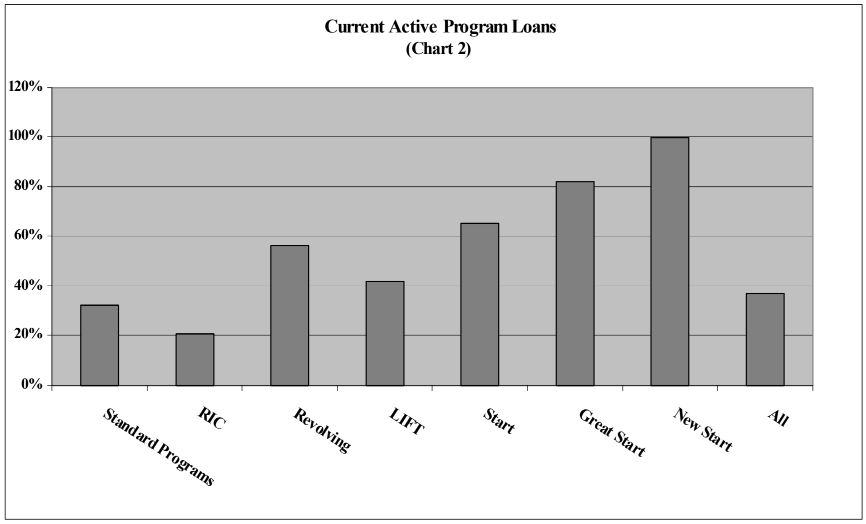
Standard Mortgage Programs

By far, the vast majority of the agency's mortgages (90.5%) were made through a standard mortgage program, a main or primary program used to deliver the agency's single family liens. The Over the Counter (OTC) program was the initial standard program, initiated through the purchase of existing loans in 1975. OTC was the longest running mortgage program and was terminated in the late 1990's. The OTC program was used to deliver over 55.9% of the agency's cumulative loans (and 82% of the agency's "standard" mortgage loans) and more than $1.9 billion in mortgage loans. During the early to middle 1980's, the Tennessee economy experienced some of its most volatile times; mortgagers offered Tennessee homebuyers mortgage interest rates as high as 18 plus percent. In comparison, the agency offered a maximum 13.5% interest rate during similar periods (Chart 1). The agency generally offered lower interest rates to qualified buyers compared to the rates they would have received on the market. Additional analysis showed some loans (17,880) produced in the 1970's and 1980's lacked pertinent detail information, but are estimated to be OTC loans.

In 1993, the Homeownership (HO) program evolved, and was utilized for the next six years, producing 638 loans (less than 2.0% of all standard program loans) and accounting for almost $33 million. We further learned the majority of households (50.4%) in the HO program were headed by

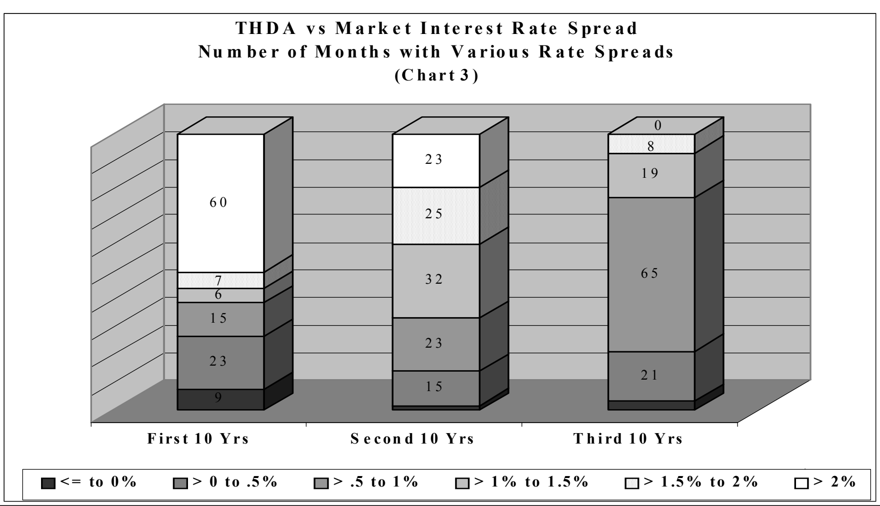
Pictured above is one of THDA's first mortgage units. This home was purchased in 1973 in Nashville, TN.

females. Currently, over half (54.1%) of these loans are active and 31% are paid off. Next, implemented as the third and current standard program, Great Rate (GR) has been in existence since August 1998, and has currently produced 11.4% of the agency's cumulative loan activities. While thirty-eight percent of these families were headed by females, forty percent (39.5%) of the households had children living in the home. Over the years, borrowers received a median interest rate of 6.3% and THDA has never offered an interest rate through this program that was above 7.8%. Seventy-nine (79.1%) of program borrowers received interest rates at or below 7.0%. Overall, ninety-one percent (90.5%) of the agency's activities were channeled through these standard programs, and further analysis showed that 32.5% of all loans made through a standard program are currently active (Chart 2).



THDA's standard loan programs offered Tennesseans 30-year mortgages, secured by a first lien on the property. The attractive interest rates offered to borrowers is one of the enticing reasons so many Tennesseans purchased through THDA. Therefore, we compared market rates and THDA rates through respective months in a given year to analyze this interest rate advantage. Over half of the months (180 out of 357), THDA offered interest rates with a 1 percentage point or greater spread (Chart 3). Out of 120 months in the first 10 years, sixty of those months, THDA offered interest rates with a spread of 2% or greater. However, in latter years, we identified fewer months that interest rate spread was over 1%. We also learned, almost two-thirds (63.6%) of the standard program loans were backed by the Federal Housing Administration (FHA). In order to establish qualified borrowers, per IRS regulation, income and home price limitations are used.

> *"I offer my congratulations to all staff and board members, past and present, who have contributed to this agency's remarkable record of service to the citizens of Tennessee."*
>
> *- Gerald Nicely*



Special Mortgage Programs

Two additional loan programs, the Rural and Inner-City (RIC) Loan Program and the Shelby County Revolving Loan Program were established in 1987. The RIC program was designated to assist residents in rural counties and inner-city regions purchase new construction, and refurbished existing properties that are currently substandard. Under 1974 Bond Resolution, Issue E, $20 million were reserved to fund this program. The agency identified counties and census tracts that were in the greatest need for this support. Households were deemed qualified after satisfying the geographic requirement and having household earnings of $25,000 or less. Current Population Survey figures from 1987 indicated borrowers earning up to approximately 120% of Median Household Income were eligible. Program loans were heavily backed through FHA (85.4%), and also, by Veterans Administration (VA) and conventional insurance. On the other hand, serving a different population of borrowers, Revolving program loans were developed to specifically address housing needs in Shelby County. Resources for this program came from state funds, along with funding from Shelby County and THDA. The majority of the borrowers were African Americans, and also, the group was made up of households mostly headed by single females with children. However, the program was not widely used, producing very few loans (32). Both the RIC and Revolving programs were terminated in 1991 and 1993, respectively.

The Low Income Family of Tennessee (LIFT) program was established in 1988 to aide Tennesseans earning 80% or less than the HUD median family income (MFI) and purchasing homes costing less than 80% of the THDA purchase price limit. A small portion (10%) of 1974 Bond Resolution, Issues G and H, twelve million dollars from Issue I, and $6.7 million from prepaid funds under the 1974 Resolution, were designated to support the program. The LIFT program automatically offered interest rates 2 percentage points below respective standard loan program rates, while the median program interest rate was 7.4%. The bulk of the households in this program were either married with no children, or headed by a single female with children (32.4% and 36.8%, respectively). FHA backed 80.5% of these loans and VA backed 11%, leaving a minimal balance of loans distributed among Rural Development (RHS) and other conventional means. The LIFT program was terminated in 1993, and currently 42% of all originated LIFT loans remain active.

> *"The impact that THDA has had on housing is phenomenal for the State of Tennessee. The commitment of the staff as well as the Board of Directors has made housing a strong focus that enabled many more people to get into housing than would have otherwise been able to. Now we continue to see population growth as well as income growth in Tennessee, changes within the agency are mandatory. I still believe the biggest need for the population we are serving is access to down payment monies. We in the private sector must assist in finding sources for these funds.*
>
> *I considered it an honor to have been able to serve on the THDA Board for the past 10 years, helping to steer it to assure those deserving families had adequate and affordable housing. More needs to be done and renewed commitment must be made in order to continue the affordable housing push for all Tennesseans."*
>
> *-Bill Long*

In 1993, the Special Targeted Affordable Rate for Tennesseans (Start) program was initiated with the intent of serving those who had household earnings in the very low-income category. Tennesseans earning less than $17,000 yearly and purchasing single family homes costing $44,000 or less were initially qualified. In 1997, program limits increased to $18,500 and $47,500. Start borrowers received an interest rate of 5.5%. FHA backed almost eighty-five percent (84.9%) of Start program loans and RHS backed 10.3%, while the remaining loans were distributed among all the other loan types. The Start program accounted for only 3.1% (2,479 loans) of the agency's cumulative activities and was terminated in 1998. Currently active Start program loans are estimated at 65.3% of those originated.

At the same time the Start program was created, an option was implemented to assist prospective homebuyers who lacked the needed funds to cover closing and downpayment costs. This optional program is known as Plus, and for the first time at this agency, borrowers were offered the opportunity of taking out a second mortgage to help with downpayment and closing costs. Additionally, the Start Plus loan would extend for a maximum ten years at the same interest rate as the first loan. Plus program loans were also offered through the standard Homeownership program to assist borrowers with downpayment and closing costs. Second mortgage loans under both Homeownership and Start were 10-year second mortgage loans. Homeownership Plus borrowers were limited to a household income of $25,000. Through these programs, Homeownership Plus and Start Plus borrowers received more than $2 million in mortgages (637 and 640 loans, respectively).

In 1998, the agency created the Great Start program, a second option in the Homeownership Choice program (Great Rate being the standard program). The program was created to continue to give borrowers flexibility and included options that are not offered through Great Rate. The Great Start program offers interest rates 1 percentage point above what is offered to borrowers in the Great Rate program. In return, Great Start borrowers receive downpayment and closing cost assistance between 3% to 4% of the loan amount (agency policy has varied over the years). Great Start and Great Rate programs run concurrently, although for a brief period, March 2000 to April 2001, the Great Start program was suspended. These programs are two of the three programs THDA currently offers, having served over 13,197 Tennesseans jointly. Over forty percent (41.9%) of Great Start households had children living in the homes and 26.2% of the homes were minority owned. Similar numbers, 39.5% and 21.7%, respectively, characterized households in the Great Rate program. Great Start borrowers accounted for 5% of the agency's total cumulative activity and virtually all program loans (99.7%) were backed by FHA; the balance of the loans are secured by VA. As of May 2003, interest rates for Great Rate and Great Start were 5.25% and 6.25%, respectively.

Giving Tennesseans a third option under the Homeownership Choice program, in July 2001, THDA officially adopted a zero percent interest program that is designed to support homebuyers who are classified as low and very low income. New Start (NS) is delivered through non-profit organizations (Program Partners) that have an established program for the construction of single family housing and have the ability to secure the loans. More than half (53.2%) NS loans were made to African Americans, while over two-thirds (68.1%) of this program's loans were made to

"Through its various special mortgage programs, THDA has demonstrated a commitment to change and try new initiatives in an effort to meet the changing needs of lower-income Tennesseans who wish to become homeowners. As we head into the twenty-first century, and the population of our state changes (as demonstrated by the census data presented here), this commitment to new initiatives will continue to be vitally important.

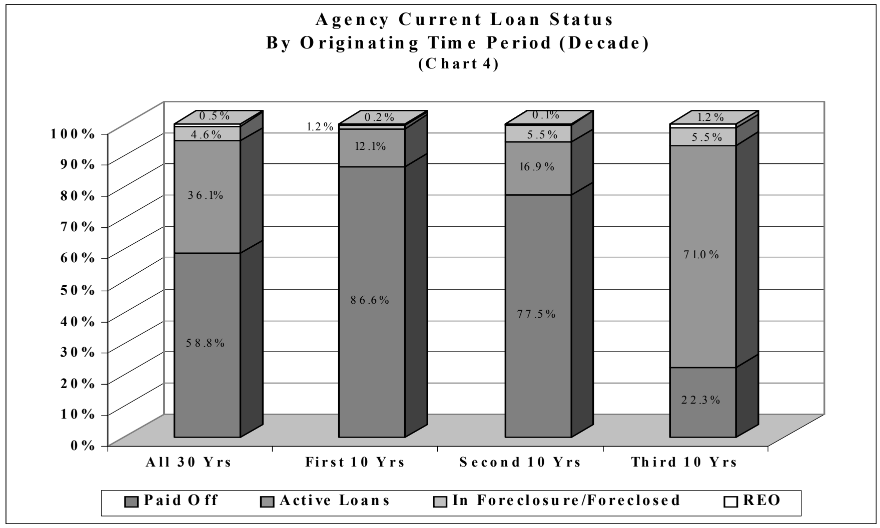
Affordable housing is an issue that faces communities across our state, and one that impacts the well-being of so many of our citizens in such a basic way. We are fortunate to have an organization like THDA, which has a long history of being a reliable and well-managed partner to those of us in the business of developing decent, innovative affordable housing options."

-H. David Hayes

families headed by a single female with children. The NS program currently has 47 loans and is designed to apply only to single family new construction for qualified Tennesseans. Household earnings were established at approximately 50% of the statewide median family income.

Clearly, there are fewer special program loans produced through the history of the agency than standard program loans. Loans originated through the GS program accounted for the majority (53.2%).

Through the history of the agency, over 80,000 loans were distributed, and 38.1% of all loans were borrowed within the last ten years. Between the years 1983 and 1992, the agency was the most productive, accumulating 41.7% of the agency's entire portfolio. Loans originated during this same period are currently 77.5% paid off; seventeen percent (16.9%) are active (Chart 4). Overall, thirty-six percent (36.3%) of loans produced over the history of the agency are currently active and fifty-eight (58.4%) are paid-off. The remaining loans consist of the following status': foreclosure sale, default mortgages; in-foreclosure, loans going through foreclosure proceedings, but are not yet final; and REO, properties the agency currently owns (0.2%, 0.1% and 1.2%, respectively—See Chart 4). Not surprisingly, the largest percentage of active loans were made within the last ten years.



Through the years, THDA's mortgage programs have changed to adjust to current market conditions and consumers' needs. We look forward to our next 30 years of serving Tennessee's first-time homebuyers.

By Bryan Ricketts, Senior Housing Research Analyst, Tennessee Housing Development Agency

"The objective of affordable housing over the past 30 years has always been to provide safe, sanitary and decent housing. During this time, however, there has been a marked change in the method by which this housing has been financed, which in turn impacts issues such as the type of ownership entity, location and type of units and the amount of affordable housing stock available. A primary catalyst for this change has been the tax code.

The income tax law is the chief tool by which government has managed affordable housing. A great deal of the affordable housing built during the 1970's and early 1980's was financed with FHA insured loans, supported by Project-based Section 8 rental subsidy. The equity for this housing was raised through investors, because of their ability to offset tax losses from the housing development (i.e. accelerated depreciation) against their other unrelated income. The 1986 changes to the Internal Revenue Code severely limited this source of equity and caused the industry to look elsewhere for capital. In its place as the basis for financing affordable housing, the tax law provided for Low Income Housing Tax Credits. The importance of tax-exempt bond financing has also increased during this time. Today, LIHTCs and tax-exempt bond financing are cornerstones for financing affordable housing."

- Jerry Sisson

The Fair Housing Act: 35 Years of Evolution

For purposes of brevity, the citations that accompany this article have been omitted here. The entire annotated article can be found on THDA's website at www.tennessee.gov/thda.

April 2003 marked the 35th anniversary of the passage of the Fair Housing Act. Of all the legacies of Dr. Martin Luther King Jr., perhaps fair housing is his most profound, because his assassination in Memphis on April 4, 1968, was the catalyst for long-overdue Congressional action to make many kinds of private housing discrimination unlawful. Thus, a process that began in August of 1967 wrapped up with amazing speed amid civil unrest, and the Fair Housing Act was signed into law by Lyndon B. Johnson on April 11, 1968, just a week after King's death.

Even while Congress debated, however, the U.S. Supreme Court was hearing arguments in Jones v. Alfred H. Mayer Co. and ruled in June 1968 that the Civil Rights Act of 1866 ("Section 1982") prohibited race discrimination in housing even among private parties. Before then, Section 1982 had been successfully applied only in cases of governmental housing discrimination or restrictive covenants that were based on race.

Thus, the actions of Congress and the Supreme Court marked the first real efforts to make private housing transactions subject to civil rights law and finally made it possible to hold homeowners and landlords legally responsible for housing discrimination. While Section 1982 at the time was construed only to apply to race discrimination, the Fair Housing Act as initially passed prohibited discrimination on the basis of race, color, national origin and religion.

The Act also opened up new avenues of enforcement of housing discrimination claims, including complaints to the U.S. Department of Housing and Urban Development and the Department of Justice, and private lawsuits in court.

Under its modern-day interpretation, the Act covers a broad range of housing-related transactions, some of which are explicit in the Act and some of which have been construed by courts under the Act's "otherwise make unavailable or deny" language. The Act covers such transactions as rentals, sales, mortgage lending, homeowners insurance, zoning, "blockbusting," appraisals, tax assessment and advertising. It also makes it illegal to coerce, intimidate, threaten, or interfere with someone in the exercise of their fair housing rights and provides for civil remedies and criminal penalties for doing so.

> ***"Of all the legacies of Dr. Martin Luther King, Jr., perhaps fair housing is his most profound...the Fair Housing Act was signed into law by Lyndon B. Johnson on April 11, 1968, just a week after King's death."***

Four years after the Act was passed, the U.S. Supreme Court had its first Fair Housing Act case. In Trafficante v. Metropolitan Life Insurance Co., the Court held unanimously that the Act was intended to have broad application and that, specifically, white persons denied the right to live in an integrated setting because of discrimination against African Americans have the right to sue. Trafficante was followed in 1974 by Curtis v. Loether, in which the Court held that plaintiffs have a right to a jury trial under the Fair Housing Act.

Trafficante was one of many cases that defined broadly the class of potential plaintiffs in fair housing cases. Under the Act, "aggrieved

persons" are proper plaintiffs in Fair Housing Act and are defined as:
…any person who -

(1) claims to have been injured by a discriminatory housing practice; or
(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

Other important cases during this early phase of the Fair Housing Act were Gladstone, Realtors v. Village of Bellwood, in which the court held that a municipality could be injured when its racial composition is adversely affected by race discrimination; Havens Realty Corp. v. Coleman, holding that fair housing organizations and even "testers" – individuals who pose as prospective customers to gather evidence of discrimination – can have standing to sue for discrimination; and Town of Huntington, N.Y. v. Huntington Branch, NAACP, holding that a town violated the Fair Housing Act when it restricted development of multi-family housing projects in a largely minority urban area.

STAGE TWO: Sex Discrimination

The Fair Housing Act remained substantially unchanged until 1974, when Congress added a prohibition of discrimination on the basis of sex. The change, which was barely debated, was a tiny part of the massive Housing and Community Development Act of 1974. Its intent was to challenge the way landlords and other housing providers had used stereotypes to make it difficult for women to obtain housing. The sponsor, Sen. William Brock, R-TN, argued that "the assumption that men could perform these [homeownership] tasks while women could not is just the sort of discrimination based on sex that we are talking about."

The new amendment meant that it would be illegal for landlords, lenders, real estate agents and others providing housing to impose different terms and conditions on women than on men. In U.S. v. Reece, the court held that the landlord violated the Act when she required single women tenants to have cars and failed to take into account alimony and child support when determining whether divorced women were qualified to rent. Neither condition was imposed on men.

Further, the addition of sex to the list of classes protected by the Fair Housing Act meant that the kinds of sexual harassment long prohibited in the workplace would now be covered in housing situations as well. The first reported sexual harassment case was Shellhammer v. Lewallen. The plaintiffs were a married couple whose landlord requested that the woman pose for nude pictures and have sex with him. When she refused, the couple was evicted.

Because the Fair Housing Act did not explicitly characterize this kind of harassment as "sex" discrimination under the Act, the court looked to Title VII, the federal employment discrimination law, for guidance. The court held that the "quid pro quo" harassment the plaintiffs experienced was as illegal under the Fair Housing Act as workplace harassment of this kind had been for years.

The court also held that sexual harassment that created a "hostile environment" was also illegal under the Act but that the treatment the Shellhammers experienced was not severe or pervasive enough to constitute a hostile environment. Later cases, however, have applied the hostile environment theory to housing as well.

STAGE THREE: Handicap and Familial Status Discrimination, Broader Coverage and Enforcement Options

The next – and most – significant amendment to the Act came in 1988 with the Fair Housing Amendments Act of 1988 ("FHAA"). The FHAA added two new classes of protection: "handicap" and "familial status," which is the presence or anticipated presence of children under 18 in a household.

In addition, the FHAA made major changes to the enforcement scheme of the Act, giving more authority to the Department of Housing and Urban Development to enforce the fair housing law. The FHAA also extended the statute of limitations for federal lawsuits from 180 days to two years and removed a $1,000 cap on punitive damages.

Discrimination on the Basis of Handicap

Before the FHAA, plaintiffs who experienced discrimination on the basis of disability were only able to sue governmental entities using Constitutional provisions such as the Equal Protection Clause or an anti-discrimination law applicable only to recipients of federal financial assistance, Section 504 of the 1973 Rehabilitation Act. Other plaintiffs found success before 1988 under state and local laws that banned housing discrimination against people with disabilities.

The FHAA opened up new avenues for enforcement of the rights of people with disabilities to live in the housing of their choosing. For the first time, private-party transactions where disability discrimination took place were subject to scrutiny in federal court.

The Act also opened up new theories of liability against cities whose zoning decisions stood in the way of development of housing options for people with disabilities in traditional single-family neighborhoods.

The Act defines "handicap" as:

1. A physical or mental impairment that substantially limits one or more of a person's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

In addition to the same prohibitions against discriminatory treatment that apply to the other six protected classes, the Fair Housing Act also requires housing providers to make reasonable accommodations to rules, policies and practices when necessary to provide a person with a disability with the same enjoyment of a dwelling; to allow people with disabilities to make reasonable physical modifications of premises; and to build certain multi-family housing built since March 1991 with basic wheelchair accessibility.

A large subset of the litigation that followed the passage of the 1988 amendments involved discriminatory zoning against group homes for people with disabilities. Although some had successfully used constitutional equal-protection arguments to challenge the discriminatory zoning decisions of municipalities even before the 1988 amendments, the amendments would allow plaintiffs to challenge similar non-governmental land-use restrictions, such as restrictive covenants, and policies that simply have the effect, if not the intent, of restricting land-use options for homes for people with disabilities.

The Act's requirement of "reasonable accommodations" in policies, practices, procedures and services has also been heavily litigated. A number of cases have involved housing providers' responsibility to allow service or companion animals for people with disabilities even when they have a "no pets" rule in place. At least a few of these cases involve public housing providers such as housing authorities who failed to accommodate disabled tenants. HUD v. Dedham Housing Authority was the first HUD administrative law judge decision to levy a fine against a housing authority for violating the Act.

Discrimination on the Basis of Familial Status

Prior to the passage of the 1988 amendments, housing providers (usually apartment complexes) were free to make housing available only to adults, leaving families with children with fewer housing options than those without. This problem came to light as early as 1980, when HUD conducted a study that found that 25 percent of the rental units surveyed banned children altogether and that another 50 percent restricted them in some way.

The Act defines "familial status" as:

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any

person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

> ***"The addition of familial status to the Act's protected classes means that housing providers can no longer refuse to deal with families with children, segregate children in to certain housing units,... restrict the number of children in a unit, or refuse to rent to families with children of a certain age."***

Under the Housing for Older Persons Act, a 1995 amendment to the Fair Housing Act, certain housing that is intended for and occupied by people who are at least 55 can legally discriminate against families with children, but still may not discriminate on the basis of race, color, national origin, religion, sex or disability. The constitutionality of the Act's familial status provisions was upheld in *Seniors Civil Liberties Association v. Kemp*. The addition of familial status to the Act's protected classes means that housing providers can no longer refuse to deal with families with children, segregate children into certain housing units, restrict children's activities with special rules, charge higher security deposits, restrict families with children to some areas or floors of a property, restrict the number of children in a unit, or refuse to rent to families with children of a certain age.

STAGE FOUR: The Near Future of Fair Housing: Efforts to Expand the Act Legislatively

For the past few years, Rep. Edolphus Towns, D-New York, has introduced legislation that would prohibit discrimination on the basis of "affectional or sexual orientation" in housing, employment, federal programs and public accommodations. The last recorded introduction of this legislation was the Civil Rights Amendment Act of 2001, introduced in January of that year. The legislation was assigned to two House subcommittees in February 2001, and no further activity has been reported.

Other legislation relevant to fair housing seeks to curb "predatory lending." Predatory lending involves the making of loans, usually with a home as collateral, that are not in the borrower's best interest and that are likely to result in default and foreclosure. These loans often involve deceptive practices that are already illegal, but legislation now pending would further restrict such activity. Predatory lending is a housing discrimination issue because it is often targeted at individuals or neighborhoods based on race or some other protected class. A detailed description of each of these bills is outside the scope of this article.

Important Litigation

The Supreme Court recently heard two cases involving housing discrimination issues. Both cases had decidedly pro-defendant outcomes, but most advocates agree that the decisions' impact on fair housing rights is minimal.

Meyer v. Holley

In *Meyer v. Holley*, the issue the Court considered was whether an individual who was the president, owner and sole shareholder of a small real estate company could be held legally responsible for the race discrimination committed by an agent working for him, even if the acts occurred without his knowledge.

The Ninth Circuit had ruled that the owner should be held responsible, applying traditional rules of "vicarious liability" to hold him responsible for his agent's acts. The Ninth Circuit found that approach "preferable to leaving the burden on the innocent victim who felt the direct harm of the discrimination."

The Supreme Court, however, reversed the Ninth Circuit, stating that the Fair Housing Act extends liability to the corporation that employs an agent who discriminates, but not to the corporation's individual owners. However, the Court said the Ninth Circuit was free to consider whether the owner could be held liable for the discrimination in either his capacity as the supervisor of the agent who allegedly discriminated or as the owner of the company. (As the Court stated, usually only the corporation – not its individual owners – can be held personally liable for acts of employees. However, in some cases, where it is clear there is no meaningful distinction between the corporation and the person who owns it, the court might "pierce the corporate veil" and hold the owner responsible.)

Though the plaintiffs did not prevail in their argument that the owner should have been held liable in this case, the Court's opinion elicited a sigh of relief from many fair housing advocates who had feared the Court might do away with vicarious liability in the fair housing context altogether. To the contrary, the Court's opinion was a strong endorsement of the concept, even as it ruled the concept did not apply here.

Buckeye Community Hope Foundation v. City of Cuyahoga Falls

Buckeye Community Hope Foundation v. City of Cuyahoga Falls involved the defendant city's decision to hold a referendum that rejected a non-profit developer's plan to construct affordable multi-family housing. During the months that led up to the referendum, neighbors had made remarks that were clearly racially discriminatory.

The referendum was eventually struck down by the Ohio Supreme Court because it wasn't a proper question for a citizen vote under the Ohio Constitution. However, the Foundation, the developer in the case, filed suit in federal court over the city's alleged violations of the Equal Protection and Due Process clauses of the Constitution, as well as the Fair Housing Act. The suit, as it evolved, sought damages for the city's delay in granting the required permits for construction of the apartments.

The trial court ruled in favor of the city before the case went to trial, but the Sixth Circuit reversed, saying the plaintiffs should have been allowed to prove that the city engaged in intentional racial discrimination when it gave effect to the racial bias evident in some of the public comments opposed to the development. The court further said that the plaintiffs should have been allowed to show that, even in the absence of intentional discrimination, the city's rejection of the development had a disparate impact on African Americans and families with children, since studies showed those groups would have been more heavily represented in the development than they were in the city at large.

The city appealed, and the Supreme Court reversed. The Court, in its unanimous holding, said the voters' discriminatory comments could not be imputed to the city to show intentional discrimination. The plaintiffs withdrew the issue of disparate impact under the Fair Housing Act in their briefs before the Supreme Court, so the Court did not consider it. Therefore, though the Court's decision in Buckeye was based exclusively on constitutional grounds, the case involved important housing discrimination issues.

Conclusion

For the most part, courts have respected Congress' wish to have the Fair Housing Act broadly applied to all kinds of housing-related transactions involving all kinds of parties. Generous interpretations of the law have allowed it to adapt to new issues, and its flexibility will allow the Act to evolve and endure for as long as necessary.

By Tracy McCartney, Executive Director, Tennessee Fair Housing Council; and Sara Pratt, formerly Director of Enforcement for HUD's Office of Fair Housing and Equal Opportunity and is currently a Fair Housing Consultant

Fair Housing in Tennessee

For purposes of brevity, the citations that accompany this article have been omitted here. The entire annotated article can be found on THDA's website at www.tennessee.gov/thda.

Like many other states, Tennessee has its own scheme of civil rights laws that prohibit discrimination in housing, employment and public accommodations. Those laws allow the state to work cooperatively with federal agencies that enforce federal discrimination laws, providing a small financial benefit to the state while somewhat lessening the enforcement burden on those federal agencies.

Tennessee Human Rights Act

Tennessee's main non-discrimination provisions are found in the Tennessee Human Rights Act ("THRA"), which was first passed in 1978. The Act created the Tennessee Human Rights Commission, a state agency charged with enforcing the Act, and set forth the discriminatory practices prohibited in Tennessee.

The housing discrimination portions of the THRA were enacted in 1984 and amended in 1990 to reflect the changes made to the federal Fair Housing Act in 1988. The THRA now prohibits housing discrimination based on race, color, creed, religion, sex, handicap, familial status or national origin.

The THRA is structured somewhat differently than the federal Fair Housing Act but is similar in substance in most respects. One substantive difference is in the exemptions from the Act; it is more difficult to claim an exemption under the THRA than under the Fair Housing Act. For example, the Fair Housing Act would exempt a landlord who lives in one unit of a building with up to four units and rents out the other three. But the THRA exempts a landlord if he has up to only **two** units and is living in one of them. In other words, a landlord who lives in one unit of a four-plex would be exempt under the Fair Housing Act with respect to discrimination that occurs in the other three units, but he would not be exempt under the THRA.

Another substantive difference is the THRA's explicit coverage of hazard insurance for real estate. The Fair Housing Act does not specifically mention homeowner's insurance as a type of transaction in which discrimination is illegal, but courts have interpreted the Fair Housing Act to cover insurance. (Curiously, however, the THRA makes insurance discrimination illegal only on the bases of race, color, creed, religion, sex and national origin. It is unclear whether the Tennessee General Assembly intended to make such discrimination against people with disabilities and families with children legal or whether this is merely a failure to amend this portion of the THRA to add disability and familial status when other portions were amended in 1990.)

A third substantive difference stems from a judicial interpretation of the THRA holding that it covers commercial real estate in addition to housing. The federal Fair Housing Act covers only "dwellings," which, while broadly defined, is limited to those places in which people actually reside. However, in *Woods v. Herman Walldorf & Co.*, the court held that the THRA prohibits discrimination in the making of commercial leases as well. The court relied on the THRA's repeated references to "real property or a housing accommodation" to conclude that the General Assembly intended to include commercial real estate in the coverage of the statute.

Enforcement under the THRA

In Tennessee, individuals who believe they have experienced housing discrimination can pursue complaints in a number of ways. The law can be enforced by "appropriate civil action," which means a lawsuit in Circuit or Chancery Court. A complainant can also file a complaint with the Tennessee Human Rights Commission. The Commission, after determining that the complaint is covered by the THRA, will open an investigation and determine whether there is "reasonable cause" to believe that discrimination occurred. If there is a "cause" determination, the case can then be set for a hearing before an administrative law judge if it is not settled first.

Deadlines for filing complaints under the THRA are shorter than those for filing under the Fair Housing Act. Administrative complaints must be filed within 180 days after the commission of the discriminatory practice. Plaintiffs have one year to file a lawsuit in circuit or chancery court. By contrast, the Fair Housing Act provides one year for an administrative complaint to be filed with HUD and two years to file a suit in federal court. And while the Fair Housing Act provides that the two-year statute of limitations for filing in court stops while an administrative complaint is pending with HUD, no similar "tolling" provision exists in the THRA.

The Commission receives cases both directly and by referral from the U.S. Department of Housing and Urban Development through a work-sharing agreement. The federal Fair Housing Assistance Program provides the state with a per-case stipend whose amount varies depending on the outcome of – and thus the cost to process – the case. The state is able to participate in this arrangement with HUD because the Tennessee statute is deemed "substantially equivalent" to the Fair Housing Act.

Some of the Commission's cases come from the state's three private fair housing organizations, the Tennessee Fair Housing Council, West Tennessee Legal Services and the Memphis Fair Housing Center. These non-profit organizations cover the entire state and provide case intake, investigation and legal representation in some cases. They are not empowered to render damage judgments or order any other kind of relief; rather, theirs is more of an advocacy role in which they represent complainants and try to ensure that their complaints are handled appropriately.

Besides the *Woods* case mentioned above, there has been relatively little reported case law based on Tennessee's fair housing statute; most of the reported cases are federal court decisions that have THRA claims along with the federal ones. At this point, the THRA serves mostly as a vehicle to allow the state to maintain a work-sharing agreement with HUD to process administrative complaints. Except in those exceedingly rare cases in which the THRA covers defendants who might be exempt from the federal Fair Housing Act, plaintiffs who wish to proceed to court with their complaints mostly do so in federal court and under the federal act, which has a longer history and more precedent.

By Tracy McCartney,
Executive Director, Tennessee Fair Housing Council

Housing Needs for Seniors

The Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century, also known as the Seniors Commission, is congressionally appointed to study and report on the housing and health care needs of the senior population, as well as the aging "baby boomer generation."

The commission reports that:
-Nearly 20 percent of seniors have significant long term care needs.
-In 1999, approximately nine elderly applicants were on wait lists for each unit of Section 202 housing, compared with eight applicants in 1988.

By the year 2020:
- The number of senior households will have grown by nearly 53 percent;
- Almost 44 percent of senior householders will be 75 or older;
- More than 80 percent of senior households will be homeowners;
- Nearly 3/4s of senior households with unmet housing needs will be homeowners;
- Even if current rates of disability decline, the number of seniors with disabilities will have increased from 6.2 million today to 7.9 million by 2020.

The full report "A Quiet Crisis in America" is available at www.seniorscommission.gov.

The Low-Income Housing Tax Credit Program in Tennessee

The Research, Planning, and Technical Services division of THDA is currently conducting a study of the Low-Income Housing Tax Credit (LIHTC) program. This study will show the progression of the LIHTC program in Tennessee since the program's implementation in 1987 until 2001. It will also provide insight regarding the success of the program in meeting its goals thus far. Has the program created more affordable rental housing units for low-income persons? Are projects sited in the areas of most need? These are the types of questions explored in the study. This article discusses findings of the initial segment of THDA's LIHTC study, which is primarily descriptive in nature. Forthcoming segments of the study will examine tenant characteristics along with geographical and social characteristics of areas where low-income housing is sited. General information about the LIHTC program is presented in this article, followed by details about the study, and finally, descriptive information about LIHTC properties in Tennessee.

The primary goal of the Low-Income Housing Tax Credit program is to provide an incentive for developing rental housing for low-income families and individuals. In addition to the general goal of the program, each state develops its own Qualified Allocation Plan (QAP) in which goals particular to the state are identified. The Low-Income Housing Tax Credit program was created by the Tax Reform Act of 1986 and has been in operation since 1987. THDA has been the administrator of the program in Tennessee since this time.

"At MDHA, we benefited greatly from the Low Income Tax Credit program administered by THDA. In particular, during my tenure at MDHA this program was a vital component in the revitalization of two old, obsolete public housing developments—Vine Hill Homes and Preston Taylor Homes."

- Gerald Nicely

A unique aspect of the Low-Income Housing Tax Credit program is that to generate more affordable rental housing for low-income persons, it does not award funds to states, but gives states the authority to allocate tax credits to the owners of low-income rental properties. The housing tax credit program encourages private owners to develop and maintain low-income rental housing by providing them the opportunity to reduce their federal tax liability for 10 years. The housing tax credit is a dollar-for-dollar reduction in the tax liability for the property owner or investor. The housing tax credit differs from deductions or adjustments to income because it is subtracted after the amount of tax is calculated.

Housing Tax Credit Allocations

Each state allocates tax credits based on a per capita figure, which is updated annually. In 2003 the per capita allocation is \$1.75. For Tennessee, this provides for approximately \$10 million in tax

Pictured above are a few houses from the Vine Hill Homes community in Nashville, TN. The Vine Hill Homes project was funded through THDA's LIHTC program.

Figure 1: LIHTC Project Characteristics By Year 1987-2001

	Year Placed In Service			
	1987-1991	1992-1996	1997-2001	1987-2001
Number of Projects	348	115	90	553
Number of Units	6,820	5,882	7,764	20,466
CONSTRUCTION TYPE				
New Construction	210	69	78	357
Acquisition/Rehab	124	46	9	179
Rehab Only	14	0	3	17
CREDIT TYPE				
No information	5	3	0	8
30 Percent	120	41	16	177
70 Percent	189	46	72	307
Both	34	25	2	61
FMHA Section 515 Loan Used	97	37	71	205
Tax-Exempt Bond Used	2	3	2	7

credits each year. The tax credits are then used to leverage private capital into new construction or acquisition and rehabilitation of affordable housing. Allocating authority is issued to THDA by the IRS. THDA screens and scores housing development proposals and awards tax credits to the owners of developments. IRS Section 42 requires that 10% of a state's allocation be set-aside for non-profit organizations. This has remained constant throughout the program's existence.

Tax Credit Rate

The tax credit rate the owner of a property is eligible for is dependant on the type of project they are doing, and whether or not they have any other federal subsidies. The actual credit rate is based on prevailing Treasury interest rates to provide a "present value" of 30% for acquisition costs and 70% for rehabilitation/new construction costs over ten years. Property owners are eligible for one of the following categories of credit:

30% housing tax credit rate
(all acquisition costs, rehabilitation or new construction with federal subsidies, or acquisition only or new construction with federal subsidies);

70% housing tax credit rate
(rehabilitation or new construction costs with no federal subsidies); or

Both
(acquisition and rehabilitation).

Eligibility of Projects and Program Guidelines

To remain eligible for housing tax credits, projects must abide by guidelines that involve a certain percentage of their units being rent restricted and occupied by low-income tenants. Projects must fulfill one of the following:

- 20% of units are rent restricted and occupied by households with incomes no greater than 50% of area median gross income; or
- 40% of units are rent restricted and occupied by households with incomes no greater than 60% of area median gross income.

Projects must remain in low-income use for at least 15 years. Also, low-income tenants are protected against eviction or large rent increases for 3 additional years. A project owner is eligible for housing tax credits only on those units in the project that are set aside for participation in the Low-Income Housing Tax Credit program.

THDA Study

To explore LIHTC properties developed in Tennessee from 1987-2001, program years were grouped together into three time

Figure 2: LIHTC Unit Characteristics By Year 1987-2001

	Year Placed In Service			
	1987-1991	1992-1996	1997-2001	1987-2001
Distribution of Projects:				
1-10 Units	211	37	1	249
11-20 Units	23	10	6	39
21-50 Units	96	40	22	158
51-99 Units	8	4	35	47
100+ Units	10	24	26	60
Distribution of Units by Number of Bedrooms:	1987-1991	1992-1996	1997-2001	1987-2001
Efficiency	96	35	10	141
One Bedroom	2,324	1,955	1,185	5,464
Two Bedrooms	3,337	2,567	3,962	9,866
Three Bedrooms	471	1,221	2,183	3,875
Four+ Bedrooms	54	8	416	478
Unit Size Unknown	538	96	8	642

Figure 3: LIHTC Project Characteristics by Grand Division 1987-2001

	East TN	Middle TN	West TN	Total
Number of Projects	135	263	155	553
Number of Units	5,058	8,900	6,508	20,466
CONSTUCTION TYPE				
New Construction	82	205	70	357
Acquisition/Rehab	47	58	74	179
Rehab Only	6	0	11	17
CREDIT TYPE				
No information	2	0	6	8
30 Percent	61	64	52	177
70 Percent	57	180	70	307
Both	15	19	27	61
FMHA Section 515 Loan Used	73	76	56	205
Tax-Exempt Bond Used	3	1	3	7

Figure 4: LIHTC Unit Characteristics by Grand Division 1987-2001

	East TN	Middle TN	West TN	Total
Distribution of Projects				
0-10 Units	35	137	77	249
11-20 Units	12	14	13	39
21-50 Units	61	62	35	158
51-99 Units	22	16	9	47
100+ Units	5	34	21	60
Distribution of Units by No. of Bedrooms				
One Bedroom	1,170	1,996	1,758	5,464
Two Bedrooms	2,203	3,861	3,802	9,866
Three Bedrooms	797	2,488	590	3,875
Four+ Bedrooms	106	211	161	478
Unit Size Unknown	120	344	178	642

periods: 1987-1991, 1992-1996, and 1997-2001. These groupings allow for comparisons to be made on how the program has changed over time. For the sake of simplicity, in this report these time periods are called period 1 (1987-1991), period 2 (1992-1996), and period 3 (1997-2001). Specifics of all properties and units can be viewed in Figure 1 and 2, which show characteristics by time period, and Figure 3 and 4, which show characteristics by grand division.

Properties and Units

Between 1987-2001 there were 553 LIHTC properties placed in service in Tennessee (see Figure 5). A total of 20,466 units were completed through the program.

The majority of projects (63%) were placed in service during period 1of the program, followed by 21% placed in service during period 2. Though period 3 has the lowest number of projects placed in service of all time periods, the most units were placed in service during this time (see Figure 6). This indicates that, on average, larger projects are being placed in service than those that were completed in the early years of the program. Average project size has increased from 19.6 units in period 1, to 51.1 units in period 2, to 86.3 units in period 3. Average project size for the program as a whole is 37 units.

Pictured above are a few houses from the Preston Taylor Homes community in Nashville, TN. The Preston Taylor Homes project was funded through THDA's LIHTC program.

Figure 5: Projects Placed In Service 1987-2001

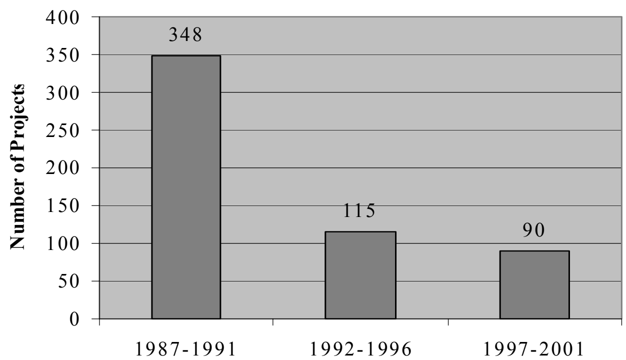
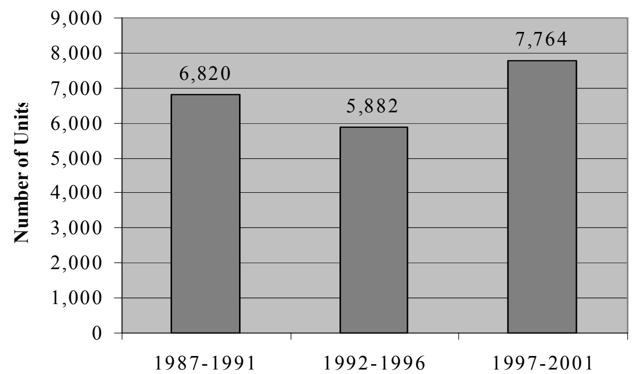


Figure 6: Units Placed In Service 1987-2001

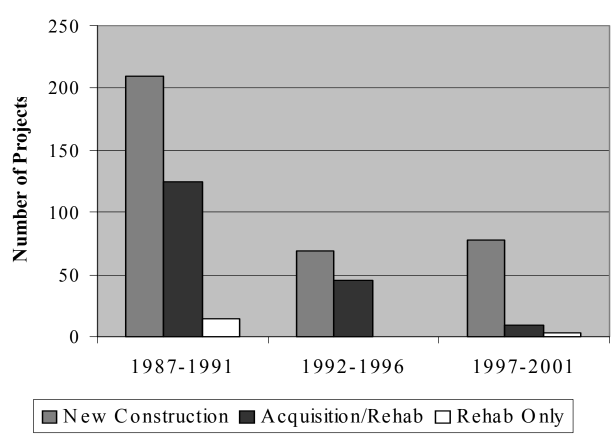


As far as geographic distribution, 48% of all properties placed in service are in Middle Tennessee, followed by 28% in West Tennesee, and 22% in East Tennessee. The number of units were distributed very similarly.

Project Type

Overall, new construction is the most common activity for LIHTC properties, followed by acquisition/rehabilitation (see Figure 7). Project type has remained constant over time. There is no significant difference among grand divisions regarding project type.

Figure 7: Project Type By Year 1987-2001



Credit Type

The most common credit percentage received by projects is 70% credit, indicating that these projects are rehabilitation or new construction, with no federal subsidies. The next most common credit type is 30%, followed by properties receiving both types of credit.

FmHA Section 515 Loans

The percent of properties using FmHA Section 515 loans (Rural Housing subsidies) is highest for period 1 (17%), decreased in period 2 (7%), and increased again in period 3 (13%). Rural housing subsidy policies have changed over the years. Perhaps the most influential change is that in recent years, participants must compete for rural housing loans nationally.

Bond Usage

THDA makes tax-exempt bond authority available to local issuers for permanent financing for multifamily housing units in Tennessee. Developments with tax-exempt bonds may be eligible for an allocation of tax credits outside the competitive process described in the QAP. However, throughout the LIHTC program, only 1% of these properties have also used bonds.

As stated earlier, this report is the initial portion of a larger study.

By Libby Thurman
Senior Housing Research Analyst, Tennessee Housing Development Agency

Book Review

The Unknown World of the Mobile Home

John Fraser Hart, Michelle J. Rhodes, & John T. Morgan. The Johns Hopkins University Press: Baltimore. 142 Pages.

The title of this book reveals the authors' contention that mobile homes represent a significant portion of housing in America, yet details about them remain unclear. This book offers a historical look at the progression of mobile homes from their beginning in the early 1930's as "trailers" that were pulled behind vehicles, to their current status as a significant portion of the housing stock of America. In addition, the book examines the geographical dispersion of mobile homes within cities and regions, explores the wide range of designs for mobile homes, the diversity of mobile home residents, and identifies difficulties faced by mobile home manufacturers and developers. This book makes it quite evident that the types, uses, and inhabitants of mobile homes in America vary greatly.

The book begins by providing a history of the advent of mobile homes. Mobile homes initially were designed to be "trailers" that vacationing families pulled behind their cars and slept in at their vacation site. Professionally manufactured trailers were usually made of aluminum and had rounded bodies, while homemade units were typically built from other materials and were boxed shaped. It was during this time that the first trailer parks were established. However, these parks soon began to function not only as places for vacationers to park their trailers, but also as residences for traveling salesmen and agricultural and construction workers who moved from job to job. From the beginning, trailer parks garnered resistance and disdain from the public. People felt that trailer park residents did not pay the appropriate portion of taxes for public services, that trailers decreased the value of nearby properties, and that "trailer people" may affect the "morality and stability" of the community. Reactions like these prompted municipalities to implement practices and laws that discriminated against trailer parks, such as increasing license fees and limiting the amount of time trailers could remain in town. Of particular issue was whether trailers should be taxed and regulated as vehicles or as houses. At this time, trailers were still classified as vehicles, but after a legal dispute in the mid-1930's they were reclassified as housing units.

The authors state that both industry and the general population began to view mobile homes as permanent housing units, rather than vehicles for vacation travel during World War II. At this time, housing shortages occurred in many areas, because workers migrated to areas where defense-related activities took place. This prompted several government agencies to purchase trailers to house war workers while conventional houses were being built for them. After the war, the government closed its trailer parks and donated its trailers to colleges and universities, which used them for married-student housing units. It was becoming clear that trailers were going to be used by many people as permanent housing units. Manufacturers therefore designed the interior of trailers to more closely resemble conventional homes. This included designing trailers with rooms that were further apart, implementing the use of real doors and windows, and making mobile homes larger. By 1969 the "double-wide" mobile home had made its appearance.

With mobile homes being used by many as permanent residences, concerns were raised about their level of safety and quality. The authors report that in 1974 Congress passed the Mobile Home Construction and Safety Standards Act, which meant that the Department of Housing and Urban Development (HUD) was able to implement a national building code. The HUD code was put into effect in 1976 and covers aspects of mobile homes including fire-safety, plumbing, heating, and electrical systems. Though the HUD code did improve mobile home safety, many suggest that there are deficiencies in the code. Critics argue that HUD's management of design and production is lacking, as is its inspection system. Therefore, the level of benefit from the implementation of the code is questionable, depending on who one asks.

The authors report that details about mobile homes remain obscured because information and statistics on mobile homes are difficult to obtain. They state that information about the number and distribution of mobile homes is available from the U.S. Bureau of the Census, the U.S. Geological Survey, and several private organizations. They recommend using available statistics to the best of one's ability, but point out that we should be cautious in assuming the degree of accuracy in these numbers. The authors cite various problems with the collection of this data. The U.S. Geological Survey, for example, collects data on large regions of the country, excluding smaller geographic areas. In addition, in the 1990 U.S. Census, "mobile homes" were placed in the same category as "other" forms of housing, including houseboats, railroad cars, camper vans, recreational vehicles, to name a few. Obviously, this means that the data does not focus specifically on mobile homes and therefore limits the conclusions we can draw about them. These are but two of the problems with mobile home data, or the lack of it.

As far as the distribution of mobile homes, this book reports that mobile home distribution somewhat reflects the distribution of the population. That is, there are the highest numbers of mobile homes in places where people need them the most. The authors report that in 1990, one-quarter of the country's mobile homes were in metropolitan areas and that almost all metropolitan areas had at least one significant cluster of mobile homes. The greatest concentration of mobile homes, however were in "perimetropolitan" counties, largely due to less restrictive zoning regulations in these areas. The authors report that in the West and South, as opposed to the North, mobile homes seem to be a more acceptable form of housing. The authors provide descriptive accounts of the dispersion of mobile homes in specific geographical areas, along with detailed descriptions of a sample of residents. These descriptive accounts allow readers to better understand the wide range of mobile home uses and residents.

Next the book provides a discussion on mobile home parks, highlighting the observation that there is extreme variance among the types of mobile home parks. They range from informal, fairly unplanned parks, characterized by unpaved streets, few facilities, and randomly sited units, to well-planned upscale parks. "Utilitarian" parks primarily provide permanent affordable housing for low-income people and tend to be simple in design. Upscale mobile home parks have several amenities, such as clubhouses, golf courses, marinas, and paved, curbed streets. Many of the upscale parks are in the Sunbelt and their tenants are retired people who live in their trailers only a portion of the year.

This book points out that mobile home parks are unique types of residential areas. The residents own their homes, but not the land on which their homes sit. Park residents pay the owner a monthly fee to cover land rental, services, and facilities. Residents pay personal property taxes on their homes, but park owners pay the real estate tax on the land. Problems specific to utilitarian mobile home park development are presented, including compliance with zoning and building regulations and finding suitable land on which to site parks. Due to these problems, along with others, the authors state that few new utilitarian parks are being developed in the urban areas that need them.

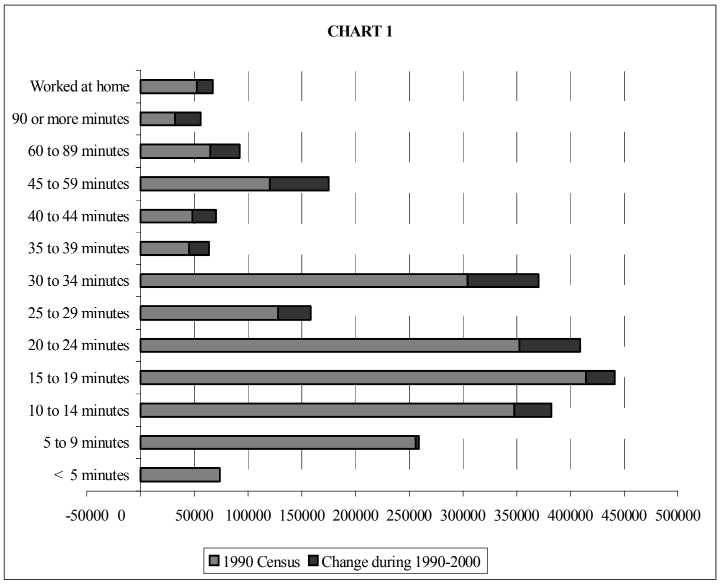
The book concludes with a very thorough summary of everything covered in the text. The authors point out that mobile homes have evolved since they were initially introduced into the housing stock. They claim that they are now "permanent additions to our national stock of affordable housing." However, the authors suggest that for the mobile home industry to be successful in the future, the market of mobile home buyers must grow. This means expanding the market from low-income buyers to middle-income buyers who can afford upscale models. Overall, this is an informative book that reads easily. Though many facts and numbers are provided, the reader is not so bombarded by these that it hinders their understanding of broader issues presented in the book. Since information about mobile homes is so scarce, most housing professionals probably do not know much about them and would likely gain insight from reading this book.

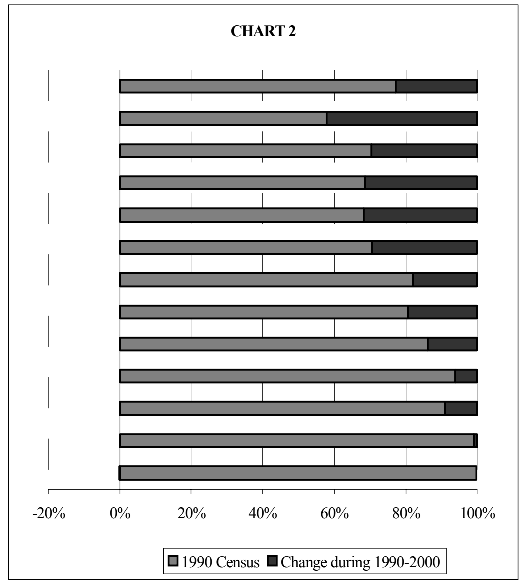
Reviewed by Libby Thurman, Senior Housing Research Analyst, Tennessee Housing Development Agency

Housing Indicators

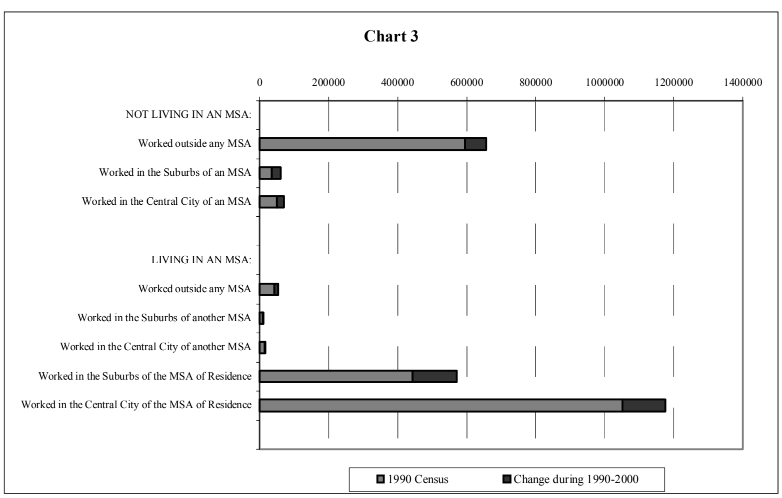
Travel Time for Tennessee Commuters

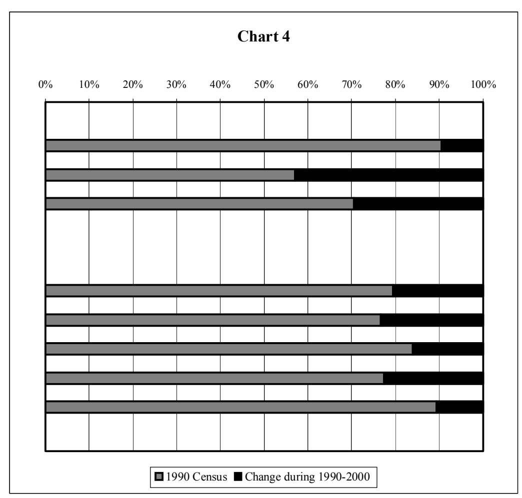
Distribution of Tennessee Working Population by Travel Time to Work in 1990 and 2000:
Chart 1 shows the actual 1990 numbers and changes during 1990-2000.
Chart 2 shows the percent distribution of these in each travel time category.





Distribution of Tennessee Working Population by Locations of Work and Residence in 1990 and 2000:
Chart 3 shows the actual 1990 numbers and changes during 1990-2000.
Chart 4 shows the percent distribution of these in each Location category.





Charts 1 and 2 are based on answers given by Tennessee working population in 1990 and 2000 to the census question "*How many minutes does it usually take you to get from home to work LAST WEEK?"* In terms of actual numbers, the distribution of travel time to work in 2000 basically resembles the 1990 pattern. However, the net addition of over 379 thousand to its 1990 workforce during the intervening ten years was skewed heavily towards lengthy commuting, as the proportional changes during the 10-year period in Chart 2 indicate.

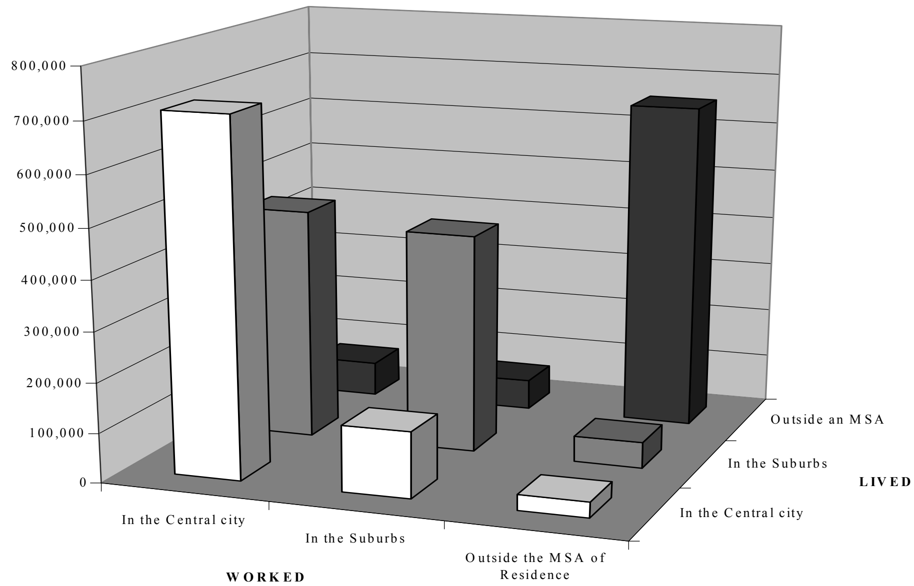


Chart 3 divides the working population in Tennessee into two residential categories, about two-thirds live within an MSA, most of whom are also working in an MSA, and the rest who live outside an MSA. The latter category also predominantly consists of those working in a non-MSA area. Interestingly, their number rose at the lowest rate during 1990-2000 period, as shown in Chart 4. On the contrary, notice the high proportional increase during this period in the number of Non-MSA residents who worked in MSA locations, especially in the suburbs.

Our comparison of 1990 and 2000 census data reveals a continuing shift towards living and working in the suburbs and the outskirts of metropolitan areas.

Ex-Urban Population Growth and Rise in Travel Time to Work

On average, it takes 24.5 minutes to commute to work in Tennessee in 2000, an increase of 3 minutes* from the1990 average. Population growth in counties adjacent to MSAs during the Nineties has also produced significant surges in the average commuting time to work among their residents. In addition to Cheatham and Dickson (in Nashville MSA), Fayette and Tipton (in Memphis MSA), and Union (in Knox MSA), Tennessee counties which exceeded the 30 minutes mark in average travel time to work in 2000 are located outside and most often adjacent to Metropolitan Areas. These include Stewart, Hickman, Morgan, Meigs, Bledsoe, Cannon, Hancock, Trousdale, Grundy, Houston, Johnson, Wayne, and Macon Counties.

* In 1990, travel time was topcoded at 99 minutes while in 2000 it was topcoded at 200 minutes. For this reason, the real increase is nearly 2 minutes. (See Nanda Srinivasan, Cambridge Systematics in CTPP 2000 Status Report, U.S. Department of Transportation, January 2003, Page 6.)

Continued From Page 5

Housing Market Changes in Tennessee: A Review of Census Data

complexity to this simple housing market scenario is the compelling social need to ensure affordable housing for all. We noticed significant improvements in the economic and housing conditions in Tennessee for many decades. We also found some deterioration in homeownership affordability in recent years in Tennessee.

A variety of housing programs to facilitate access and availability of affordable housing to Tennessee households have been underway with varying degrees of public and private collaboration. THDA has played an important role in delivering these programs through the state, by administering the Section 8 Rental Assistance Program in many counties, the Low-Income Housing Tax Credit Program, and the HOME Program, among others. However, when the agency was created in 1973, its primary purpose was to administer the Mortgage Revenue Bond program, designed to encourage homeownership. The following is a summary of a 30-year THDA effort to further affordable home lending in Tennessee.

By Dean Namboothiri, Chief of Research, Tennessee Housing Development Agency

Examining the Community Reinvestment Act

The Joint Center for Housing Studies at Harvard University has released its report on the Community Reinvestment Act (CRA). In the 25 years since the passage of the Community Reinvestment Act, the banking and mortgage industry has seen substantial changes which may have changed the impact of the CRA and its relevance to lending.

Passage of the Community Reinvestment Act was brought about by the actions of advocacy groups that pressured banks to increase lending in lower-income/ minority communities where those institutions had deposit-taking branches. Prior to passage of the act, banks were accused of avoiding lending in these areas. At that time, banks and thrift organizations originated most home purchase loans. In 1980, thrift organizations originated nearly one half of all home purchase loans.

Since the passage of the Act, mortgage lending has changed with the growth of mortgage brokers and mortgage banking operations, the expansion of secondary mortgage markets, and the loosening of regulatory restrictions on intra- and interstate banking. In the study, the lending patterns of CRA-regulated entities were compared with those of lenders outside of the CRA regulatory framework.

Analysis confirms that CRA-regulated lenders originate a higher proportion of loans to low-income people and communities than they would if CRA did not exist. On the other hand, changes in mortgage lending and in the banking and financial services industry appear to diminish the impact of the Community Reinvestment Act. Some major findings of the study are:

In 1993, only 14 lenders made more than 25,000 home purchase loans, accounting for only 23 percent of all home purchase lending. By 2000, the 25 lending organizations making more that 25,000 loans accounted for 52 percent of all home purchase loans made in that year.

The CRA eligible share of conventional prime lending to blacks is as much as 20 percent higher for CRA regulated lenders operating in their assessment areas than for independent mortgage companies. For Hispanics, the equivalent gap is 16 percent.

The rise in bank-owned mortgage companies and the growth of new types of loans and new types of lenders has reduced the CRA regulatory reach and impact. Government-backed, sub-prime, and manufactured home lending organizations, many of whom are not subject to detailed CRA review, have accounted for some 63 percent of the growth of mortgage lending to lower-income households in lower income neighborhoods.

The 25th Anniversary of the Community Reinvestment Act: Access to Capital in an Evolving Financial Services System is available at www.jchs.harvard.edu.

Many thanks to the following people for contributing their insights to this issue of the *Tennessee Housing Outlook*.

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Tennessee Housing Outlook invites you to submit proposals for inclusion in future issues. Please return this form to us and we will send you our formatting specifications. We are looking for articles based on research about any aspect of housing, including special needs housing, neighborhood development issues, and housing and family studies. We request short (3-5 page) articles accompanied by tabular and graphic materials.

Name: ____

Professional Affiliation: ____

Address: ____

Office Phone: ____

(Please send this form to: Tennessee Housing Outlook, Attn: Ms. Lorraine C. Shearon, Director of Research, Planning, & Technical Services, 404 James Robertson Parkway, Suite 1114, Nashville, TN 37243-0900)